(3)

IN THE HIGH COURT OF JUDICATURE AT

BILASPUR (C.G.)

c/f 1000

WRIT PETITION NO. 1692 **/2001**

PETITIONER : **Narendra Ku Tiwari** , aged about 45 years, s/o Shri Ram Murti Tiwari , Assistant Director, Department of Commerce and Industries, Government of Chhattisgarh, Raipur , (C.G.)

P. R. No. 1266/17
Presented by Shri ...
dated ...

Versus

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RESPONDENTS : 1. STATE OF CHHATTISGARH , Through Principal Secretary, Department of Commerce and Industries, Mantralaya , D.K. Bhawan Raipur. (C.G)

2. SECRETARY, Vidhan Sabha of Chhattisgarh , Raipur (C.G)

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA.

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
29.10.2001	Mr. Prashant Mishra for the petitioner. Dr. N. K. Shukla learned Dy. A.G. for the state. Arguments heard order dictated in open court- passed, signed & dated.	30/0 27/ ser 2, 27/

Sd/-
Chief Justice

Sd/-
Fakhruddin
Judge

Case
29.
ord

GRPRJ—FS/311—1/2001—50,000.

A.F.R.

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 1524/2001

W.P.NO.1922/2001
And
W.P. No.1692/2001

(78)

ORDER

Per Fakhruddin, J-

This order shall dispose of all the above-mentioned writ petitions as the question involved is common in nature.

The petitioner has filed the instant petition challenging the legality, validity and propriety of the report dated 2.8.2001 submitted by the committee constituted by Vidhan Sabha of Chhattisgarh for enquiring into the alleged irregularity in the matter of supply of furniture to the Tribal Welfare Department,State of Chhattisgarh. It is submitted that the report submitted by the committee is arbitrarty and illegal. It is also the submission of the counsel for the petitioner that in the said report certain recommendations have been made against the writ petitioner for which there is absolutely no basis in the entire report. It is contended by the pe;titioner that the report further goes to demonstrate that the recommendation of taking appropriate stern action against the petitioner has also been contemplated in it.

2. Learned Advocate General and the Deputy Advocate General appearing for the State of Chhattisgarh, submitted that a committee was constituted on 29.3.2001 under the Chairman-ship of Shri Dharamjit Singh. The Committee so constituted also included Shri Mahesh Tiwari and Shri Manturam Pawar besides Shri Dharamjit Singh. The abovementioned committee was constituted by Hon'ble the Speaker of the Vidhan Sabha.

3. Learned counsel for the petitioner further submitted that the inquiry committee though summoned a large number of persons as witnesses which included officers and employees of the Tribal Welfare Department but the petitioner did not receive any notice or summons from the said committee. The Committee ultimately submitted its report on 2.8.2001 which was also placed on the floor of the State Legislature. The main relief sought for in

the petition is for the quashment of the impugned report being illegal, arbitrary and void. (79)

4. It is submitted by the counsel for the respondent that the Vidhan Sabha has duly constituted the committee and the report has also been given to the House.It is further submitted that since the matter is yet to be discussed by the House,and at this stage no executive direction of the government as such is there warranting interference in exercise of the power under Article 226/227 of the Constitution,the petition is not at all maintainable at this Stage when the matter is under consideration before the Vidhan Sabha.As such it would be just and proper that the Government and the Vidhan Sabha be allowed to perform their function in accordance with the provisions of the constitution and in view of the facts and circumstances of the case and also material available on record it is not a case for interference in exercise of the jurisdiction under Article 226/227 of the Constitution of India.

5. So far as the validity of the constitution of the committee is concerned, learned Advocate General has contended that the committee has been validly constituted by the Speaker of the House. He also placed reliance on the decision of the Supreme Court in the matter of P.V.Narsimharao Vs. State (CBI/SPE) ,1998 (IV) SCC 626 where the Apex Court considering the case of Ex.P Wason (1869) 4 QB 573: 38 LJQB,302 has held as under :

> " Clause (1) (2) of Article 105 are interlinked, while clause (1) secures to the Members of freedom of speech in Parliament, clause (2) safeguards and protects the said freedom conferring immunity on the members from liability in respect of anything said or any vote given by him in Parliament or in any committee thereof. This is necessary because for a regulatory body like parliament the freedom and free

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debate is of the essence of speech is of the utmost importance and full and free debate is of the essence of speech in Parliamentary democracy. In England this freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament," confers immunity in respect of speech,debate or proceedings in parliament being questioned in any court or place out of parliament. The said immunity has been construed to preclude what was said or done in parliament in the course of proceedings therefrom being examined outside the parliament for the purpose of supporting a cause of action even though the cause of action itself arose out of something done outside the parliament."

6. Learned Advocate General also placed reliance on Article 194 (2) and 212 of the Constitution of India. Article 194 (2) says that no member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report,paper,votes or proceedings. Whereas Article 212 goes to say that the validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of the procedure.

7. Learned counsel appearing for the petitioner placed reliance on the decision of the Madras High Court in the case of D.Murugesan Vs. Hon.Speaker ,Tamil Nadu Legislative Assembly reported in AIR1995 Madras page 260 AND in the matter of S. Balasubramaniabn Vs. State of Tamil Nadu and others reported in AIR 1995 Madras page no. 329. In the case of S.Balasubramania Vs. State of Tamilnadu (supra) it has been held that the penalty imposed by the speaker without giving hearing to the

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delinquent is in violation of the Procedure under Tamilnadu Assembly rules and as such the same is liable to be quashed.

8. Learned Advocate General on the other hand submits that these are the cases where the warrants were issued and the question of sentence/punishment being imposed without any opportunity of hearing to the delinquent was involved and the deprivation of the life and liberty was alleged. He further submitted that the present case does not pertain to the violation of the fundamental right enshrined under Part III of the Constitution. Learned Advocate General fairly submits that the petitioner if so desires may make a representation to the government which shall be placed by the government before the Speaker of the Vidhan Sabha for being dealt with in accordance with rules and practice prevailing in the Vidhan Sabha.and we do grant permission to the petitioner to make a representation along with documents to the State if so desire.

9. In view of the facts and circumstances of the case and keeping in view the fact that the matter is still under consideration of the government and the Vidhan Sabha,we are of the opinion that the powers,privileges etc. conferred upon the legislature and the members of the legislative assembly,have to be construed in their proper perspective.

10. Consequently no case for invoking the extra ordinary jurisdiction under Article 226/227 of the Constitution of India is made out at this stage. The petition fails and as such the same is dismissed.

11. Parties to bear their own costs as incurred.

Sd/-
Chief Justice

Sd/-
Fakhruddin
Judge

J